

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

BOBBY KELLY,

Petitioner,

VS.

OSCAR MENDOZA,

Respondent.

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CIVIL ACTION NO. C-08-237


**ORDER ADOPTING MEMORANDUM AND
RECOMMENDATION TO GRANT
RESPONDENT'S MOTION FOR SUMMARY JUDGMENT**

On October 17, 2008, United States Magistrate Judge Brian L. Owsley signed a Memorandum and Recommendation recommending that respondent's motion for summary judgment (D.E. 10) be granted and the petition (D.E. 1) be dismissed with prejudice; and further that petitioner be denied a certificate of appealability. Seeing no objection to this recommendation by either party and having now reviewed the recommendation, this Court hereby adopts as its own the Memorandum and Recommendation as the decision of the Court. Accordingly, it is

ORDERED that respondent's motion for summary judgment is granted and the petition is dismissed with prejudice. Petitioner is denied a certificate of appealability.

The clerk shall enter this order and provide a copy to all parties.

SIGNED and ORDERED this 10th day of November, 2008.


Janis Graham Jack
United States District Judge